

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Re:
MATTOCKS FIVE, INC.
Debtor

TAMERA OCHS ROTHSCHILD
Trustee/Attorney Pro Se
Movant

v.

MATTOCKS FIVE, INC.
CENTRAL FARM AND GARDEN, INC.
MASTER FEED AND GRAIN, INC.
SPRINGBORO BOROUGH TAX COLLECTOR
CITY OF MEADVILLE TAX COLLECTOR
ERIE COUNTY TAX CLAIM BUREAU
ALBION BOROUGH TAX COLLECTOR
COMMONWEALTH OF PA UNEMPLOYMENT
COMPENSATION
BOROUGH OF ALBION WATER DEPT.
MEADVILLE AREA WATER AUTHORITY
Respondents
Respondents

Case No. 18-10201-TPA
Chapter 7

Document #
Related Document #

Hearing Date and Time:
to be set

Objection Date: June 4, 2018

**MOTION FOR PUBLIC SALE BY AUCTION OF REAL AND PERSONAL
PROPERTY FREE AND DIVESTED OF LIENS**

NOW COMES, Tamera Ochs Rothschild, Trustee/Attorney Pro Se of the above-captioned case, with this Motion for Public Sale by Auction of Real and Personal Property Free and Divested of Liens, and who in support states as follows:

1. The Bankruptcy Court has jurisdiction over this Motion pursuant to 28 U.S.C. §1334, 28 U.S.C. §157 and order of reference.
2. On 03/09/18, an order for relief under Chapter 7 of the Bankruptcy Code was entered in this case.
3. The undersigned is the qualified and acting Trustee in this case.
4. Trustee has authority to file this motion and to sell the real and personal property by public auction free and divested of liens under 11 U.S.C. Section 363.

5. Debtor's assets include real estate and personal property identified in the Petition and Schedules and summarized on Exhibit A.

6. Respondents, and their interests are identified as follows:

a. Mattocks Five, Inc.

Address: 318 W. Spring St., Titusville, PA 16354

Represented by: Gary Skiba, Esq.
345 W. 6th St.
Erie, PA 16507

Nature of lien/interest: Debtor is record and title owner of all assets.

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all ownership rights of Debtor by auction sale.

b. Central Farm and Garden, Inc.

Address: 380 North Smyser Road, Wooster, OH 44691

Represented by: Thomas J. Minarcik, Esq.
150 E. 8th St., 2nd Floor
Erie, PA 16501

Nature of lien/interest:

i. Mortgage recorded 4/7/2017 in the amount of \$250,000.00, at Erie County Recorder's Office at Instrument No. 2017008230, secured by both Waterford and Albion properties.

ii. Pennsylvania Dept. of State UCC-1: Filing #2017051701466 filed 5/17/2017 "all of Debtor's personal property and proceeds thereof, whether now or hereafter arising."

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances by sale. Trustee and Respondent are parties to Administrative Agreement Order entered at Document No. 25, which terms shall prevail.

c. Master Feed and Grain, Inc.

Address: 300 Mulberry St., Conneautville, PA 16406

Represented by: Michael P. Kruszewski, Esq.
2222 West Grand View Blvd.
Erie, Pa 16506

Nature of lien/interest:

- i. Mortgage recorded in the Erie County, Pennsylvania Recorder's Office in 1992 in the amount of \$572,366.00 at Erie County Mortgage Book 224, page 144. Secured by Albion property only.
- ii. Mortgage recorded in 1992 in the Crawford County Recorder's Office in the amount of \$572,366.00 at Record Book 158, page 1129. Secured by all Springboro and Meadville parcels.

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale. Trustee and Respondent are parties to Administrative Agreement Order entered at Document No. 25, which terms shall prevail.

d. Springboro Borough Tax Collector

Address: Terri Blount, Tax Collector
144 N. Main St.
Springboro, PA 16435

Nature of lien/interest: 2018 real estate taxes for vacant lot, Springboro, PA, Map No. 5207-27 (5207-027-70001)

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale and proposes real estate taxes be paid at closing of sale of real estate.

e. City of Meadville Tax Collector

Address: Michelle Sampson, Tax Collector
894 Diamond Park
Meadville, Pa 16335

Nature of lien/interest: 2018 real estate taxes for 136 Mead Ave., and 133 Pine St., Meadville, Pa 16335 Map No. 5207-27 (5207-027-70001).

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale and proposes real estate taxes be paid at closing of sale of real estate.

f. Erie County Tax Claim Bureau

Address: 140 W. 6th St. Room 110
Erie, Pa 16501-1011

Nature of lien/interest: Delinquent 2017 Taxes \$3,883.95 for 73 Canal St., Albion, Pa and \$421.33 for Washington St., Albion, Pa property, plus accruing interest.

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale and proposes real estate taxes be paid at closing of sale of real estate.

g. Albion Borough Tax Collector

Address: Norma Jafko, Tax Collector
35 Jackson Ave.
Albion, PA 16401

Nature of lien/interest: 2018 real estate taxes for 73 Canal St. and Washington St., Albion, Pa. Tax ID No. 1-4-24-1 (Map No. 01-004-024.0-001.00) and Tax ID No. 1-2-11-6 (Map No. 01-002-011.0-006.00)

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale and proposes real estate taxes be paid at closing of sale of real estate.

h. Commonwealth of Pennsylvania Unemployment Compensation

Address: Commonwealth of Pennsylvania
Department of Labor & Industry
Attn: Linda Mitten
Collections Support Unit
651 Boas St., Room 702
Harrisburg, PA 17121
(pursuant to Request for Notices filed in this case)

Nature of lien/interest:

- i. 1984-32840 Commonwealth of Pa Unemployment Compensation v William S Mattocks Jr. and TA Waterford Milling \$480.06.
- ii. 1984-33316 Commonwealth of Pa Unemployment Compensation v William S Mattocks Jr. and TA Waterford Milling \$1889.70.
- iii. 1985-31019 Commonwealth of Pa Unemployment Compensation v William S Mattocks Jr. and TA Waterford Milling \$258.75.
- iv. 1998-13640 Commonwealth of Pa Unemployment Compensation

v William S Mattocks Jr. and TA Waterford Milling \$1510.96.

- v. 1999-13826 Commonwealth of Pa Unemployment Compensation
v William S Mattocks Jr. and TA Waterford Milling \$695.44.
- vi. 2000-12162 Commonwealth of Pa Unemployment Compensation
v William S Mattocks Jr. and TA Waterford Milling \$568.30.
- vii. 2000-12163 Commonwealth of Pa Unemployment Compensation
v William S Mattocks Jr. and TA Waterford Milling \$8,973.86.

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale and intends that these liens be declared void as to the Debtor (successor in interest to name defendant of judgments) and be divested from the property from the property and sale proceeds.

i. Albion Water Dept.

Address: Borough of Albion
26 Smock Ave.
Albion, PA 16401

Represented by: Thomas J. Minarcik, Esq.
150 E. 8th St., 2nd Floor
Erie, PA 16501

Nature of lien/interest: Municipal water lien, Account No. 61, for 73 Canal St., Albion, Pa. Balance due \$128.74.

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale and proposes to pay water lien at closing of sale of real estate.

j. City of Meadville Water Dept.

Address: Meadville Area Water Authority
18160 Rogers Ferry Road
Meadville, Pa 16335

Nature of lien/interest: Municipal water lien 136 Mead Ave. and 133 Pine Ave., Meadville, Pa 16335. Balance due to be determined.

Proposed treatment of lien/interest at closing: Trustee seeks to terminate and divest any and all liens and encumbrances rights by sale and proposes to pay water lien at closing of sale of real estate.

7. Trustee has simultaneously filed a Motion to Employ Jeffery Pennington, Auctioneer, PA License #AU005490, of Pennington Auctions, 1902 Williams Drive, New Castle, PA 16101, www.jeffpennauctions.com on the following terms:

Commission fees:

Personal property 15% gross sale price, which includes administration for written advertising preparation and asset photography

Real Estate all at reserve pricing:

Offered and not sold \$250.00 No Sale Fee per parcel, reduced from usual \$500.00 per parcel.

Sold: Buyer non-refundable premium 10% of high bid with no fee to Seller for sale. Terms of Sale to be on Seller Agreement to be provided in advance of Auction advertising. 10% to be held in Auctioneer escrow as deposit pending sale consummation.

Expenses:

Pre-Auction Labor \$12/hr per person not to exceed \$1,500.00

Auction Labor \$15/hr per person not to exceed \$1,300.00

Advertising

Print media: Area Shopper Not to exceed \$1,800.00

Online sites:

jeffpennauctions.com, auctionzip.com free

2 porta potties (Albion & Meadville) 2 @\$100 per

2 motor vehicle tows Actual cost (estimated at \$200/each)

Auctioneer Bond: CNA Surety \$5,000.00

Liability Insurance: Erie Insurance \$1,000,000.00

Terms of Sale:

All Assets to be sold AS IS and without Warranty.

Payment by Cash, PA check with valid PA identification, Visa, Master Card, and Discover card. No out of state checks accepted.

Real estate to be sold with reserve on terms of Seller Agreement with ten percent (10%) buyer premium/down payment due at auction.

Settlement Report to be provided to Trustee 5 days from the last auction with Commission and Expense itemization and deduction and delivery of 70% net auction proceeds to allow for any NSF checks. Remaining net proceeds to be provided to Trustee on 21st day post sale with NSF check accounting.

8. The Trustee will attend the sale to collect all monies received or in the alternative obtain a sufficient bond for the proposed auctioneer.
9. The Trustee requests the sale be ordered to take place free and divested of liens, claims, encumbrances, and other interests; and that the liens, claims, encumbrances, and other interests be divested and transferred to the proceeds of sale to the extent that they are found to be valid, enforceable and unavoidable.
10. The Trustee requests that the proceeds of the sale be distributed at closing of the auction, first to expenses and costs of sale including, but not limited to, auctioneer's commission of fifteen per cent (15%) gross sale price, which includes administration for written advertising preparation and asset photography, plus costs pursuant to Motion to Employ auctioneer with the balance to the bankruptcy estate for the benefit of creditors holding valid and enforceable claims.

WHEREFORE, the trustee requests an Order:

1. Authorizing the trustee to proceed with a public auction sale to be conducted by Jeffery Pennington of Pennington Auctions, Professional Auctioneer AU005490, on July 06, 2018 and July 07, 2018, commencing at 9:00 a.m. at the Mattocks Five, Inc. sites located in Albion, Meadville, Waterford and Titusville, Pennsylvania.
2. Authorizing the public auction sale of real and personal property free and divested of all liens, claims, encumbrances, and other interests in and against the personal property be divested therefrom and transferred to the proceeds of the sale, to the extent that they are valid, enforceable and unavoidable;
3. Ordering that the sale and bankruptcy costs referred to above be paid from the proceeds of sale in advance of any distribution to lien creditors;
4. Ordering that the Trustee have such other relief as is reasonable and just.

Dated: May 16, 2018

/s/ Tamera Ochs Rothschild, Trustee
Tamera Ochs Rothschild, Trustee/Pro Se
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Titusville, PA 16354
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